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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

UNTIED STATES OF AMERICA, Plaintiff, v. ALMUNTASSER HBAIU, Defendant.	No. CR 13-00665-JAK **STIPULATION AND REQUEST TO ENTER PRELIMINARY ORDER OF FORFEITURE** [No Hearing Requested] **[PROPOSED] PRELIMINARY ORDER OF FORFEITURE FILED CONCURRENTLY HEREWITH**

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By the signatures of their counsel hereunder, plaintiff United States of America (the "government") and defendant Almuntasser Hbaiu ("defendant")("Hbaiu") stipulate and request that the Court enter the Proposed Preliminary Order of Forfeiture ("Proposed POOF") lodged contemporaneously herewith pursuant to Rule 32.2(b) of the Federal Rules of Criminal Procedure. The parties to this action, by and through their respective counsel of record, hereby stipulate and request as follows:

I. INTRODUCTION

The defendant was charged in the Middle District of Pennsylvania, U.S. v. Hbaiu, CR 12-00301-SHR, for conspiracy to introduce misbranded drugs in interstate commerce and structuring financial transactions. The defendant was arrested in the Central District of California pursuant to an arrest warrant issued on December 5, 2012 from the Middle District of Pennsylvania.

On February 11, 2016, Hbaiu was convicted of Counts Fourteen and Fifteen of the Fourth Superseding Indictment. As part of his sentence for that conviction, defendant shall forfeit the following:

1. $20,000 in U.S. currency seized on or about December 5, 2012;
2. $270,000 in lieu of real property located at Hummelstown, Pennsylvania;[1]
3. $102,921.73 seized from Bank of America Account '0685, held

[1] Pursuant to Local Rule 5.2-1, personal residence addresses have been omitted. Defendant delivered the sum of $270,000 in the form of two cashiers' checks (Wells Fargo Bank Cashier's Check '1290 in the amount of $115,000 and Americas United Bank Cashier's Check '4512 in the amount of $155,000).

by 3 Performance Plus Marketing, dba HK Nutraceuticals; and

4. $12,159.71 seized from Bank of America Account XXXXX 05542, held by Almuntasser Hbaiu and Abdul Razza Hbaiu.[2]

Pursuant to the Amended Judgment and Probation/Commitment Order (Dkt. 445) the above referenced assets are subject to forfeiture.

II. THIS COURT SHOULD ENTER A PRELIMINARY ORDER OF FORFEITURE

Pursuant to Rule 32.2(b) (3) of the Federal Rules of Criminal Procedure, the entry of a Preliminary Order of Forfeiture authorizes the seizure of specific property subject to forfeiture. The entry of a Preliminary Order of Forfeiture also authorizes, where applicable, the commencement of proceedings designed for the efficient adjudication of third party rights through ancillary proceedings. Fed.R.Crim.P. 32.2(c). Where no ancillary proceeding occurs, "the preliminary order becomes the final order of forfeiture if the court finds that the defendant . . . had an interest in the property that is forfeitable under the applicable statute." Fed.R.Crim.P. 32.2(c)(2). Under these circumstances, it is appropriate for the Court to allow a reasonable period of time to object to the findings and terms of the Preliminary Order. See generally, United States v. Kalish, 2009 WL 130215 at *3 (S.D.N.Y. Jan. 13, 2009) (defendant given 30 days to object to preliminary order).[3]

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[2] This stipulation satisfies the Court's February 11, 2016, Judgment and Probation/Commitment Order (Dkt. 445) which ordered the government and Hbaiu to identify the property to be forfeited.

[3] If the Court does not enter a forfeiture order at the time of sentencing it "must otherwise ensure that the defendant knows of the forfeiture at sentencing." Fed.R.Crim.P 32.2(b) (4) (B); see generally United States v. Martine, 662 F.3d 301,309-10 (4th Cir. 2011) (upholding preliminary order entered after sentencing where defendants knew of forfeiture at sentencing). Here, defendant's agreement to forfeiture of the property identified herein establishes that he "knows of the forfeiture" within the meaning of Martine.

The government does not anticipate that the defendant will object to the findings or terms of the Preliminary Order because his guilty plea established the facts necessary for the entry of a preliminary order. The requirements of Rule 32.2(b) have therefore been met and the Preliminary Order of forfeiture should be issued.

III. CONCLUSION

For the foregoing reasons, the government respectfully requests that this Court enter the proposed Preliminary Order of Forfeiture.

Dated: October 31, 2016

Respectfully submitted,

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Dated: October 31, 2016

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